



**EB-2007-0050**

**IN THE MATTER OF** the *Ontario Energy Board Act 1998*,  
S.O.1998, c.15, (Schedule B) (the “Act”);

**AND IN THE MATTER OF** an Application by Hydro One  
Networks Inc. pursuant to section 92 of the Act, for an  
Order or Orders granting leave to construct a transmission  
reinforcement project between the Bruce Power Facility  
and Milton Switching Station, all in the Province of Ontario.

**AND IN THE MATTER OF** an award of costs pursuant to  
section 30 of the OEB Act.

**BEFORE:** Pamela Nowina  
Vice Chair and Presiding Member

Cynthia Chaplin  
Member

Ken Quesnelle  
Member

## **DECISION AND COST ORDER – STAGE ONE**

### **PROCEEDING TO DATE**

Hydro One Networks Inc. (“Hydro One”) filed an amended application (the “Amended Leave to Construct Application”) with the Ontario Energy Board (the “Board”) dated November 30, 2007 under section 92 of the Ontario Energy Board Act, 1998, S.O. 1998, c.15, Schedule B (the “Act”). This Amended Leave to Construct Application addresses certain changes to Hydro One’s original application filed with the Board on March 29, 2007.

Hydro One is seeking an Order of the Board to construct approximately 180 kilometres of double-circuit 500 Kilovolt (“kV”) electricity transmission line adjacent to the existing transmission corridor (500 kV and/or 230 kV) extending from the Bruce Power Facility in Kincardine Township to Hydro One’s Milton Switching Station in the town of Milton. Hydro One also proposes to make modifications at the Milton, Bruce A and Bruce B transmission stations to accommodate the new transmission lines. This Leave to Construct Application was given Board file No. EB-2007-0050.

Hydro One has submitted that the project is required to meet the increased need for transmission capacity associated with the development of wind power in the Bruce area and the return to service of nuclear units at the Bruce Power Facility. Hydro One proposes an in-service date of Fall 2011 for the new 500 kV transmission line and related facilities. The estimated cost of the transmission project is approximately \$635 million.

## **COST AWARD PROCESS AND TIMELINE**

On May 23, 2008 the Board issued, by way of a letter, a direction to all intervenors and the Applicant on intervenor cost submissions (“Direction on Cost Submissions”).

In its Direction on Cost Submissions the Board referred to its Decision and Order on Motion, dated July 4, 2007, in which the Board, among other matters, indicated it would institute a staged cost award process. That Decision stated:

*“The Board does understand that cost awards can be a lengthy process and that this places a significant burden on participants in a lengthy proceeding. Therefore, for this proceeding, the Board will institute a staged cost awards process.”*

Accordingly, the Board set the schedule for a staged cost award process and noted that the intervenors may chose to wait until the proceeding is completed and file a single claim for all of their costs. The Board stated that the staged cost award process would consist of two stages. In Stage One, intervenors may file claims for eligible costs incurred from the start of the proceeding until May 16, 2008.

The Board, in the Procedural Order No. 11, dated June 17, 2008, made provision for Stage Two cost claims and claims for those intervenors that have chosen to file a single cost claim.

The Board has received four Stage One cost claims and will deal with these claims in this decision and order.

## **STAGE ONE COST CLAIMS**

### Cost Claims Filed

In accordance with the Direction on Cost Submissions for filing cost claims in the Stage One, the following eligible intervenors filed cost claims:

- Fallis Group (\$113,982.13)
- Mr. Papas (disbursements \$ 1,838)
- Energy Probe (\$ 75,535.74)
- Métis Nations of Ontario (\$ 24,184.41)

### Reply by the Applicant

Hydro One replied to these cost claims on June 16, 2008. Hydro had no comments on the claims; however noted that it would be “difficult to make meaningful cost comparisons under an interim cost award process when not all parties have submitted claims”.

### Reply by Intervenors

On June 17, 2008, Mr. Fallis on behalf of the Fallis Group of Intervenors replied to Hydro One’s letter. No other parties filed submissions in the Stage One cost award proceeding. Mr. Fallis clarified the way that the Fallis Group has filed cost claims for the proceeding. He explained that three claims were made: an interim cost claim for the consulting services of Mr. Brill up to May 15, 2007 for which the Board issued a decision on May 30, 2008; a Stage One cost claim which is the subject of this decision; and a Stage Two cost claim which will be subject to the Board’s final decision on costs in the proceeding. Mr. Fallis also noted that costs for the expert services of Mr. Brill, who is the only expert witness for the Fallis Group, were partly decided in the May 30, 2008 decision and that the Stage One cost claim by the Fallis Group has only legal costs. Mr. Fallis submitted that therefore the “Board can proceed to review the Cost Claims as submitted by these Intervenors, as the issue of comparison of the cost of other various experts is not relevant to present Costs Claims of these intervenors”.

**BOARD FINDINGS – STAGE ONE COST CLAIMS**

The Board finds that the Fallis Group, Mr. Papas, Energy Probe and Métis Nations of Ontario are entitled to 100 % of their reasonably incurred Stage One costs.

All cost claims that are the subject of this decision conform to the Board's *Practice Direction on Cost Awards*, include appropriate tariffs and are supported by dockets as required.

It is noted that on May 30, 2008, the Board issued a partial decision and cost order regarding interim cost submissions by the Fallis Group. In the May 30, 2008 partial decision, the Board allowed for the recovery of the cost of 21.75 hours of Fallis Group Consultant Mr. Edward Brill in the amount of \$4,567.50, plus his disbursements of \$906.22, for a total cost award of \$5,473.72. These amounts are not included in the Stage One claim by Fallis Group.

The Board considered the submission by Hydro One that a meaningful comparison of contribution and costs for the various parties in the proceeding cannot be made without having all of the costs reviewed. The Board agrees that a phased proceeding in which not all parties make cost claims in the first phase makes it difficult to make accurate comparisons regarding the value of any single party's contribution. The Board is aware that a number of eligible intervenors have filed costs claims in the Stage Two or final single cost claim process, and the Board intends to review the total amount of the costs claimed by all parties, and compare the totals at that time.

The costs being awarded in this decision are being done so on a final basis. However, the Board will consider the Stage One costs when it is conducting its overall assessment of the intervenor cost claims as part of its Stage Two decision process. If the Board determines that any adjustments are required, those adjustments will be made to the Stage Two cost claims.

**THE BOARD THEREFORE ORDERS THAT**, pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Hydro One Networks Inc. shall immediately pay:

- A landowner group represented by Peter Fallis of Fallis, Fallis & McMillan the sum of \$ 113,982.13;
- Mr. Papas the sum of \$ 1,838;

- Energy Probe the sum of \$ 75,535.74;
- Métis Nations of Ontario the sum of \$ 24,184.41.

**DATED** at Toronto, August 1, 2008

**ONTARIO ENERGY BOARD**

*Original Signed By*

Kirsten Walli  
Board Secretary